United Nations ST/AI/2000/12

Secretariat

25 October 2000

Administrative instruction

Private legal obligations of staff members

The Under-Secretary-General for Management, pursuant to section 4.2 of Secretary-General's bulletin ST/SGB/1997/1, and for the purpose of implementing staff regulation 1.1 (f), staff rules 101.2 (c), 201.2 (c) and 301.3 (c), hereby promulgates the following:

Section 1
Scope

The present instruction shall apply to all staff members appointed under the 100 series, the 200 series and the 300 series of the Staff Rules, and should be read in conjunction with Secretary-General's bulletin ST/SGB/1999/4, "Family and child support obligations of staff members".

Section 2
General provisions

2.1 Under staff rules 101.2 (c), 201.2 (c) and 301.3 (c), staff members must comply with local laws and honour their private legal obligations, including the obligation to honour orders of competent courts. Such orders include orders against a staff member to make payments for the support of his or her spouse or former spouse and/or dependent children ("family support court orders").

2.2 In accordance with staff regulation 1.1 (f), the privileges and immunities of the United Nations are conferred in the interests of the Organization and furnish no excuse to staff members who are covered by them for the non-performance of their private legal obligations. The Secretary-General shall determine in any particular case whether such privileges and immunities exist and, if so, whether they shall be waived.

2.3 Pursuant to section 20 of the Convention on the Privileges and Immunities of the United Nations ("the Convention"), the immunity granted to an official shall be waived in any case where, in the opinion of the Secretary-General, the immunity would impede the course of justice and its waiver will not prejudice the interests of the United Nations. In accordance with section 21 of the Convention, the United Nations has an obligation to cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges and immunities of the Organization.

2.4 Abuse of the privileges and immunities of the United Nations in order to avoid service of process may result in disciplinary action.

Section 3
Mission service

Staff members detailed to special missions shall:

(a) Make suitable arrangements before departure for payment of their debts and discharge of their ongoing obligations at the parent duty station, and

(b) Settle all indebtedness incurred in the mission area before their departure from the mission.

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Section 4
Procedures applicable in cases of non-compliance with family support court orders

4.1 The procedures for deductions from staff members' salaries, wages and other emoluments set out in Secretary-General's bulletin ST/SGB/1999/4 shall apply to ensure effective relief when staff members fail to comply with family support court orders. Those procedures are without prejudice to actions under sections 4.2, 4.3 and 6 of the present instruction.

4.2 When a staff member is in arrears on his or her family support obligations, and the arrears have been judicially established but the court has not specifically ordered additional monthly payments to liquidate such arrears, the staff member shall be required to submit satisfactory evidence within thirty days from the date of receipt of the request from the Office of Human Resources Management or the local personnel office that he or she has taken all necessary steps to discharge his or her outstanding arrears. This requirement shall be met if the staff member submits evidence:

(a) That the entire amount of arrears has been paid, or

(b) That alternative arrangements have been agreed upon with the spouse, former spouse, dependent children or their legal representative(s).

4.3 Failure to submit evidence satisfactory to the Secretary-General as required by section 4.2 of the present instruction may constitute serious misconduct and lead to the imposition of appropriate disciplinary measures.

Section 5
Procedures applicable in cases of non-compliance with other private legal obligations

5.1 The United Nations, including its property and assets, is immune from legal process and from judgements of execution. United Nations salaries, therefore, are not subject to garnishment or attachment. However, privileges and immunities are granted to officials in the interests of the United Nations, not for the personal benefit of the individuals themselves, and the Organization's immunity is not intended to derogate from the rights of legitimate claimants. Accordingly, when an outside claimant communicates to the United Nations that a staff member has failed to honour his or her private legal obligation, the Organization shall proceed as provided in the provisions set out below.

5.2 The outside claimant shall be advised of the Organization's immunity, whereby United Nations salaries are not subject to garnishment, and of its policy of requiring staff members to meet their private legal obligations.

5.3 The staff member concerned shall be provided with a copy of the correspondence from and to the claimant, together with a copy of the claim, levy or order, and shall be requested to take prompt action to resolve the matter and to advise the Office of Human Resources Management or the local personnel office of the action taken.

5.4 If no appropriate action has been taken within three months from the date of receipt by the staff member of the request made under section 5.3 of the present instruction, all related correspondence shall be placed in the staff member's official status file and disciplinary action may be initiated.

Section 6
Deductions from final entitlements

6.1 Deductions from all final entitlements, including repatriation grant, may be made under staff rules 103.18 (b) (ii) and (iii), 203.13 (b) (ii) and (iii) or 303.5 (b) to pay the staff member's legally established obligations, including family support obligations.

6.2 The order of precedence of deductions from final entitlements shall be as follows:

(a) Deductions for indebtedness to the United Nations and the United Nations Credit Union (or similar institution at duty stations away from Headquarters);

(b) Outstanding judicially established family obligations;

(c) All other legally established indebtedness to third parties.

6.3 In case of dispute or conflicting claims in connection with deductions from final entitlements, including issues or priority, the United Nations shall have the right, in its discretion, to withhold payment commensurate with the amount in question until such dispute or conflicting claims have been resolved by

written agreement of the interested parties or the issuance of a final judgement by a court of competent jurisdiction.

Section 7
Final provisions

7.1 The present administrative instruction shall enter into force on 1 December 2000.

7.2 Administrative instruction ST/AI/399 of 14 December 1994 is hereby abolished.

(*Signed*) Joseph E. **Connor**
Under-Secretary-General for Management